

EXHIBIT B

BART K. LARSEN, ESQ.
Nevada Bar No. 8538
KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Telephone: (702) 362-7800
Facsimile: (702) 362-9472
E-Mail: blarsen@klnevada.com

Attorneys for Defendant
KENNETH CANNATA

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

HP TUNERS, LLC,

Plaintiff,

vs.

KENNETH CANNATA,

Defendant.

CASE NO. 3:18-cv-00527-LRH-WGC

**DEFENDANT'S RESPONSES TO
PLAINTIFF HP TUNERS, LLC'S
FIRST SET OF REQUESTS FOR
ADMISSION**

Attorneys for Defendant Kenneth Cannata ("Cannata"), by and through his counsel of record, KOLESAR & LEATHAM hereby responds to Plaintiff HP Tuners, LLC's ("HPT") First Set of Requests for Admission to Defendant as follows:

GENERAL OBJECTIONS

1. Cannata objects to HPT's Requests for Admissions to the extent they fail to seek and admission of the truth of matters relevant to this action.

2. Cannata objects to HPT's Requests for Admissions to the extent they fail to relate to statements or opinions of fact.

3. Cannata objects to HPT's Requests for Admissions to the extent they seek information prepared in anticipation of litigation or seek the disclosure of theories and opinions of Cannata's legal counsel or his consultants or agents on the grounds that such information is protected from disclosure by attorney work product privilege.

KOLESAR & LEATHAM
 400 South Rampart Boulevard, Suite 400
 Las Vegas, Nevada 89145
 Tel: (702) 362-7800 / Fax: (702) 362-9472

4. Cannata objects to HPT's Requests for Admissions to the extent that, when read with the definitions and instructions provided by HPT, they are so vague, broad, general, and all-inclusive that they do not permit proper or reasonably response and are, therefore, unduly burdensome and oppressive.

5. Cannata objects to HPT's Requests for Admissions to the extent that they seek an opinion or statement as to any question of law.

REQUEST FOR ADMISSION NO. 1:

Admit that You provided a Lexar USB Portable Drive to Kevin Sykes-Bonnett prior to October 20, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Cannata admits that he provided a portable USB drive to Kevin Sykes-Bonnett prior to October 20, 2016. Cannata otherwise denies this Request for Admission.

REQUEST FOR ADMISSION NO. 2:

Admit that the document attached hereto as Exhibit 1 depicts an image of folders and files on a "Lexar (E:)" drive You possess or previously possessed at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Cannata denies this Request for Admission. Cannata does not recognize the document attached as Exhibit 1 to HPT's First Set of Requests for Admissions to Defendant.

REQUEST FOR ADMISSION NO. 3:

Admit that the document attached hereto as Exhibit 1 depicts an image of folders and files on a "Lexar (E:)" drive You provided to Kevin Sykes-Bonnett at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Cannata denies this Request for Admission. Cannata does not recognize the document attached as Exhibit 1 to HPT's First Set of Requests for Admissions to Defendant.

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REQUEST FOR ADMISSION NO. 4:

Admit that the document attached hereto as Exhibit 2 depicts an image of the Key Generator Tool you provided to Kevin Sykes-Bonnett.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Cannata admits that he provided a key generator tool to Kevin Sykes-Bonnett. Cannata otherwise denies this Request for Admission. Cannata does not recognize the document attached as Exhibit 2 to HPT's First Set of Requests for Admissions to Defendant.

REQUEST FOR ADMISSION NO. 5:

Admit that the document attached hereto as Exhibit 3 is a copy of a Non-Disclosure Agreement You executed with Syked ECU Tuning.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Cannata admits that the document attached as Exhibit 3 to HPT's First Set of Requests for Admissions to Defendant is a copy of a Non-Disclosure Agreement he executed with Syked Tuning Software, LLC. Cannata otherwise denies this Request for Admission.

REQUEST FOR ADMISSION NO. 6:

Admit that You have communicated via electronic mail with Kevin Sykes-Bonnett since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Cannata admits he has communicated via electronic mail with Kevin Sykes-Bonnett since January 1, 2016.

REQUEST FOR ADMISSION NO. 7:

Admit that You have sent email communications to Kevin Sykes-Bonnett using the email address ken_cannata@charter.net at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Cannata admits he has sent email communications to Kevin Sykes-Bonnett using the email address ken_cannata@charter.net since January 1, 2016.

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REQUEST FOR ADMISSION NO. 8:

Admit that You have received email communications from Kevin Sykes-Bonnett at the email address ken_cannata@charter.net at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Cannata admits he has received email communications from Kevin Sykes-Bonnett using the email address ken_cannata@charter.net since January 1, 2016.

REQUEST FOR ADMISSION NO. 9:

Admit that You have sent email communications to Kevin Sykes-Bonnett using the email address ken_cannata@att.net at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Cannata admits he has sent email communications to Kevin Sykes-Bonnett using the email address ken_cannata@att.net since January 1, 2016.

REQUEST FOR ADMISSION NO. 10:

Admit that You have received email communications from Kevin Sykes-Bonnett at the email address ken_cananata@att.net at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Cannata admits he has received email communications from Kevin Sykes-Bonnett using the email address ken_cannata@att.net since January 1, 2016.

REQUEST FOR ADMISSION NO. 11:

Admit that You were involved with the development of a hardware device for use with Syked ECU Tuning's software at any time since January 1, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Cannata objects to this Request for Admission on the basis that it is vague as to the terms "involved with the development of" and "hardware device." Without waiving such objection, Cannata admits that he developed a hardware device after September 20, 2016 that is compatible for use with certain software developed by Syked ECU Tuning, Inc. Cannata otherwise denies this Request for Admission.

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REQUEST FOR ADMISSION NO. 12:

Admit that You provided Kevin Sykes-Bonnett with an admin version of HPT's MPVI.

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "an admin version of HPT's MPVI." Without waiving such objection, Cannata denies this Request for Admission. To the best of his knowledge and recollection, Cannata did not provide an admin version of HPT's MPVI to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 13:

Admit that You provided Kevin Sykes-Bonnett with technical and/or confidential information relating to HPT's MPVI.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "technical and/or confidential information relating to HPT's MPVI." Without waiving such objection, Cannata denies this Request for Admission. To the best of his knowledge and recollection, Cannata did not provide confidential information relating to HPT's MPVI to Kevin Sykes-Bonnett. To the extent that Cannata discussed technical information relating to HPT's MPVI with Kevin Sykes-Bonnett, such discussions were limited to information generally available to the public.

REQUEST FOR ADMISSION NO. 14:

Admit that You possess technical and/or confidential information relating to HPT's MPVI.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "technical and/or confidential information relating to HPT's MPVI." Without waiving such objection, Cannata admits that he possesses technical knowledge relating to HPT's MPVI as the development of the MPVI was based in part on information and knowledge developed by Cannata prior to becoming an owner of HPT; Cannata was also involved in the development of the MPVI while he was an owner of HPT. Cannata denies that he possesses any confidential

information relating to HPT's MPVI as the technical knowledge he possesses concerning the MPVI is generally available to the public or based on knowledge developed by Cannata prior to becoming an owner of HPT that is not the intellectual property of HPT. Cannata otherwise denies this Request for Admission.

REQUEST FOR ADMISSION NO. 15:

Admit that You have had technical and/or confidential information relating to HPT's MPVI in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "technical and/or confidential information relating to HPT's MPVI." Without waiving such objection, Cannata admits that he possesses technical knowledge relating to HPT's MPVI as the development of the MPVI was based on information and knowledge developed by Cannata prior to becoming an owner of HPT; Cannata was also involved in the development of the MPVI while he was an owner of HPT. Cannata denies that he possesses any confidential information relating to HPT's MPVI as the technical knowledge he possesses concerning the MPVI is generally available to the public or based on knowledge developed by Cannata prior to becoming an owner of HPT that is not the intellectual property of HPT. Cannata otherwise denies this Request for Admission.

REQUEST FOR ADMISSION NO. 16:

Admit that You provided Kevin Sykes-Bonnett with HPT's Key Generation tool software.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's Key Generation tool software." Without waving such objection, Cannata admits that he provided HPT's key generation tool software to Kevin Sykes-Bonnett. Cannata otherwise denies this Request for Admission.

REQUEST FOR ADMISSION NO. 17:

Admit that You possess a copy of the HPT Key Generation tool software.

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400 South Rampart Boulevard, Suite 400
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RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “the HPT Key Generation tool software.” Without waving such objection, Cannata denies this Request for Admission. To the best of Cannata’s knowledge and recollection, all copies of the HPT Key Generation tool software in Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 18:

Admit that You have had a copy of the HPT Key Generation tool software in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “the HPT Key Generation tool software.” Without waving such objection, Cannata denies this Request for Admission. To the best of Cannata’s knowledge and recollection, all copies of the HPT Key Generation tool software in Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 19:

Admit that You provided Kevin Sykes-Bonnett with an admin version of HPT’s VCM Suite software.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata admits that he provided Kevin Sykes-Bonnett with an admin version of HPT’s VCM Suite software.

REQUEST FOR ADMISSION NO. 20:

Admit that You possess an admin version of HPT’s VCM Suite software.

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RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata admits that he possesses an admin version of HPT’s VCM Suite software.

REQUEST FOR ADMISSION NO. 21:

Admit that You have had an admin version of HPT’s VCM Suite software in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata admits that he possesses an admin version of HPT’s VCM Suite software.

REQUEST FOR ADMISSION NO. 22:

Admit that You provided Kevin Sykes-Bonnett with one or more of HPT’s source code files.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s source code files.” Without waiving such objection, Cannata denies this request for admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT’s source code files to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 23:

Admit that You possess one or more of HPT’s source code files.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s source code files.” Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata’s knowledge and recollection, all HPT source code files in Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

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400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
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REQUEST FOR ADMISSION NO. 24:

Admit that You have had one or more of HPT's source code files in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's source code files." Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT source code files in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 25:

Admit that You provided Kevin Sykes-Bonnett with one or more of HPT's hardware schematics.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's hardware schematics." Without waiving such objection, Cannata denies this request for admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT's hardware schematics to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 26:

Admit that You possess HPT's hardware schematics.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's hardware schematics." Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT hardware schematics in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 27:

Admit that You have had HPT's hardware schematics in Your possession at any time on or after October 21, 2016.

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 Las Vegas, Nevada 89145
 Tel: (702) 362-7800 / Fax: (702) 362-9472

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s hardware schematics.” Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata’s knowledge and recollection, all copies of HPT hardware schematics in Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 28:

Admit that You provided Kevin Sykes-Bonnett with one or more of HPT’s MPVI communication protocol documents.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s MPVI communication protocol documents.” Without waiving such objection, Cannata denies this request for admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT’s MPVI communication protocol documents to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 29:

Admit that You possess HPT’s MPVI communication protocol documents.

RESPONSE TO REQUEST FOR ADMISSION NO. 29:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s communication protocol documents.” Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata’s knowledge and recollection, all HPT communication protocol documents in Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 30:

Admit that You have had HPT’s MPVI communication protocol documents in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 30:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s communication protocol documents.” Without waiving such objection, Cannata denies

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this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT communication protocol documents in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 31:

Admit that You provided Kevin Sykes-Bonnett with one or more of HPT's firmware documents.

RESPONSE TO REQUEST FOR ADMISSION NO. 31:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's firmware documents." Without waiving such objection, Cannata denies this request for admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT's firmware documents to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 32:

Admit that You possess HPT's firmware documents.

RESPONSE TO REQUEST FOR ADMISSION NO. 32:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's firmware documents." Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT firmware documents in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 33:

Admit that You have had HPT's firmware documents in Your possession at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 33:

Cannata objects to this Request for Admission on the basis that it is vague as to the term "HPT's firmware documents." Without waiving such objection, Cannata denies this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT firmware documents in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in HPT.

REQUEST FOR ADMISSION NO. 34:

Admit that You provided Kevin Sykes-Bonnett with a PCM Harness for the E38 Controller.

RESPONSE TO REQUEST FOR ADMISSION NO. 34:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he provided a PCM harness compatible for use with an E38 controller that is or was available for purchase to the general public to Kevin Sykes-Bonnett. Cannata otherwise denies this request for admission.

REQUEST FOR ADMISSION NO. 35:

Admit that You possess a PCM Harness for the E38 Controller.

RESPONSE TO REQUEST FOR ADMISSION NO. 35:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he possesses a PCM harness compatible for use with an E38 controller that is or was available for purchase to the general public. Cannata otherwise denies this request for admission.

REQUEST FOR ADMISSION NO. 36:

Admit that You have had possession of a PCM Harness for the E38 Controller at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 36:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he possesses a PCM harness compatible for use with an E38 controller that is or was available for purchase to the general public. Cannata otherwise denies this request for admission.

REQUEST FOR ADMISSION NO. 37:

Admit that You provided Kevin Sykes-Bonnett with HPT’s PCM Tools Software.

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KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

RESPONSE TO REQUEST FOR ADMISSION NO. 37:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for admission. To the best of his knowledge and recollection, Cannata did not provide HPT’s PCM Tools Software to Kevin Sykes-Bonnett.

REQUEST FOR ADMISSION NO. 38:

Admit that You possess HPT’s PCM Tools Software.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for admission. To the best of Cannata’s knowledge and recollection, all HPT PCM Tools Software in Cannata’s possession was deleted or returned to HPT upon the sale of Cannata’s ownership interest in HPT.

REQUEST FOR ADMISSION NO. 39:

Admit that You have had possession of HPT’s PCM Tools Software at any time on or after October 21, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Cannata objects to this Request for Admission on the basis that it is vague as to the term “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for admission. To the best of Cannata’s knowledge and recollection, all HPT PCM Tools Software in Cannata’s possession was deleted or returned to HPT upon the sale of Cannata’s ownership interest in HPT.

DATED this 14th day of June, 2019.

KOLESAR & LEATHAM

By /s/ Bart K. Larsen, Esq.

BART K. LARSEN, ESQ.

Nevada Bar No. 8538

400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Attorneys for Defendant

KENNETH CANNATA

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Kolesar & Leatham and that on the 14th day of June, 2019, I caused to be served a true and correct copy of foregoing **DEFENDANT'S RESPONSES TO PLAINTIFF HP TUNERS, LLC'S FIRST SET OF REQUESTS FOR ADMISSION** in the following manner:

(ELECTRONIC SERVICE) The above-referenced document was electronically mailed on the date hereof to the following parties:

Andrew P. Bleiman, Esq.
MARKS & KLEIN
1363 Shermer Road, Suite 318
Northbrook, Illinois 60062
Email: andrew@marksklein.com

Attorneys for Plaintiff
HP TUNERS, LLC

Cecilia Lee, Esq.
Elizabeth High, Esq.
LEE HIGHT, LTD
499 West Plumb Lane, Suite 201
Reno, Nevada 89509
Email: c.lee@lee-high.com
e.high@lee-high.com

Attorneys for Plaintiff
HP TUNERS, LLC

/s/ Mary A. Barnes

An Employee of KOLESAR & LEATHAM

KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472